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9 Attorneys for Defendant
MICROSOFT CORPORATION

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 LAURIE MARIE LASKEY,
14 Plaintiff,
15 v.
16 MICROSOFT CORPORATION, and DOES 1
through 1000, inclusive,
17 Defendants.

Case No. CV-08-1465-WHA

**REPLY DECLARATION OF
LESLIE HARVEY IN SUPPORT
OF MICROSOFT'S MOTION TO
DISMISS OR, IN THE
ALTERNATIVE, SECOND
MOTION FOR A MORE
DEFINITE STATEMENT;**

Date: September 4, 2008
Time: 8:00 a.m.
Courtroom: 9, 19th floor
Judge: William H. Alsup

1 I, Leslie N. Harvey, declare as follows:

2 1. I am an attorney with the law firm of Heller Ehrman LLP, counsel of record
3 for defendant Microsoft Corporation ("Microsoft") in this action. I make this declaration in
4 support of Microsoft's Motion to Dismiss Or, In the Alternative, Second Motion for a More
5 Definite Statement. I have personal knowledge of the facts set forth herein, and I could and
6 would testify competently to them if called as a witness.

7 2. Attached hereto as Exhibit 1 is a true and correct copy Defendant Microsoft's
8 Initial Disclosures that mention "icw5," served on Plaintiff on June 12, 2008.

9
10 Dated: August 18, 2008

11
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13 By: 
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LESLIE N. HARVEY

EXHIBIT 1

1 WARREN J. RHEAUME (admitted *pro hac vice*)
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11 UNITED STATES DISTRICT COURT
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14 Plaintiff,

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through 1000, inclusive,

17 Defendants.

Case No. CV-08-1465-WHA

**DEFENDANT MICROSOFT'S
INITIAL DISCLOSURES**

20 **RULE 26 INITIAL DISCLOSURES**

21 Defendant Microsoft Corporation ("Microsoft") makes the following initial
22 disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure. These
23 disclosures are based on information now reasonably available to Microsoft. Microsoft
24 expressly reserves the right to rely on additional witnesses, documents, and other
25 information as the case progresses and as further investigation and discovery reveal
26 additional issues and information. Microsoft also expressly reserves the right to supplement
27

1 or correct these disclosures pursuant to FRCP 26(e). Microsoft further reserves any and all
2 evidentiary objections to the information disclosed.

3
4 **1. Rule 26(a)(1)(A): The name and, if known, the address and telephone number**
5 **of each individual likely to have discoverable information—along with the subjects of**
6 **that information— that the disclosing party may use to support its claims or defenses,**
7 **unless the use would be solely for impeachment.**

8 Microsoft states that it does not fully understand the basis for Plaintiff's claim that
9 Microsoft caused damage to Plaintiff. Furthermore, the Complaint is unclear as to the
10 precise nature of Plaintiff's factual allegations and the legal theories upon which relief
11 might be based. The Court has granted Microsoft's Motion for a More Definite Statement
12 on these grounds. Microsoft therefore is unable at this time to determine what individuals
13 are likely to have discoverable information that Defendant may use to support any claims or
14 defenses, with the exception set forth below:

Name	Contact Information	Subjects of Information
Laurie Marie Laskey	(910) 548-3345	All facts alleged in Plaintiff's Complaint
Daniel Williams	(252) 393-7760	Facts and circumstances surrounding information appearing on Plaintiff's computer.

20 In accordance with Rule 26(a)(1), Microsoft is making its initial disclosures based on
21 information reasonably available to it at this time. Based on further discovery and
22 developments in this case, Microsoft may identify additional individuals with relevant
23 knowledge. In accordance with Rule 26(e), this disclosure will be supplemented as
24 Microsoft identifies additional individuals it may use to support its defenses in this action.

25
26 **2. Rule 26(a)(1)(B): A copy—or a description by category and location—of, all**
27 **documents, electronically stored information, and tangible things that the disclosing**

1 party has in its possession, custody, or control and may use to support its claims or
2 defenses, unless the use would be solely for impeachment.

3 Microsoft states that it does not fully understand the basis for Plaintiff's claim that
4 Microsoft caused damage to Plaintiff. Furthermore, the Complaint is unclear as to the
5 precise nature of Plaintiff's factual allegations and the legal theories upon which relief
6 might be based. The Court has granted Microsoft's Motion for a More Definite Statement
7 on these grounds. Microsoft therefore is unable at this time to determine what documents
8 are likely to be relevant to this action, with the exception set forth below:

9 Document Category	Location
10 Documents produced by Plaintiff 11 to Microsoft	Originals in the possession of Plaintiff
12 Documents describing 13 Microsoft's Internet Connection 14 Wizard 5.0 (icw5)	Publicly available on websites such as: http://community.open.org/instructions/icw5_printer.htm

15 In accordance with Rule 26(a)(1), Microsoft is making its initial disclosures based on
16 information reasonably available to it at this time. Based on further discovery and
17 developments in this case, Microsoft may identify additional categories of relevant
18 documents and/or tangible objects. In accordance with Rule 26(e), this disclosure will be
19 supplemented as Microsoft identifies additional individuals it may use to support its
20 defenses in this action.

21
22 **3. Rule 26(a)(1)(C): A computation of each category of damages claimed by the**
23 **disclosing party—who must also make available for inspection and copying as under**
24 **Rule 34 the documents or other evidentiary material, unless privileged or protected**
25 **from disclosure, on which each computation is based, including materials bearing on**
26 **the nature and extent of injuries suffered.**

1 Microsoft does not claim damages at this time. Microsoft may seek to recover its
2 reasonable attorneys' fees and expenses incurred in connection with its defense in this
3 lawsuit. Microsoft is unable to compute these damages at this time.

4 Microsoft reserves the right to modify and/or supplement its damage computation as
5 additional information becomes available.

6
7 **4. Rule 26(a)(1)(D): For inspection and copying as under Rule 34, any insurance**
8 **agreement under which an insurance business may be liable to satisfy all or part of a**
9 **possible judgment in the action or to indemnify or reimburse for payments made to**
10 **satisfy the judgment.**

11 Microsoft is not aware of any insurance policy that may satisfy this claim.

12
13
14 Respectfully submitted,

15 Dated: June 12, 2008

16 By: s/ Leslie N. Harvey
17 LESLIE N. HARVEY
18 HELLER EHRMAN LLP
19 Attorneys for Defendant
20 MICROSOFT CORPORATION
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PROOF OF SERVICE BY FEDERAL EXPRESS

CASE NO. 08-CV-1465-WHA, N.D. CAL.

I, Mark C. Williams, declare as follows:

I am and was at the time of the service mentioned in this certificate employed with Heller Ehrman at 333 Bush Street, San Francisco, CA 94104. I am over the age of 18 years and not a party to the within action.

On June 12, 2008 I served the following document:

DEFENDANT MICROSOFT'S INITIAL DISCLOSURES

on the party to this action by placing a true and correct copy in an envelope marked for delivery via Federal Express for next day delivery to the attention of:

Ms. Laurie Marie Laskey
120 Briar Hollow Drive
Jacksonville, NC 28540
(910) 548-3345

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this proof of service was executed on this 12th day of June, 2008 at San Francisco, CA.



Mark C. Williams